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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,003	01/21/2004	Mark Neuhalphen	2004-0017	4517
7590		09/21/2007		
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			EXAMINER	
			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	
			MAIL DATE	DELIVERY MODE
			09/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/762,003

Applicant(s)

NEUHALFEN, MARK

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 38-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/27/2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 38-46 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for *the peripheral joined to the side wall in proximity to the first end of the mounting cup, does not reasonably provide enablement for the bottom wall joined to the sidewall in proximity to the first end of the mounting cup, the first region of said sidewall and said bottom wall being located radially inwardly relative to said second region of said sidewall to provide a mounting surface for securing the collapsible container to said mounting cup; and said first region of said sidewall and said bottom wall being located radially inwardly relative to said second region of said sidewall a distance sufficient to provide*

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*clearance for inserting the improved mounting cup and the attached collapsible container through the opening defined by the bead of the aerosol container.*

The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. See in claims 38, lines 8-11 and lines 16-22.

4. Claims 47 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for *the mounting cup extending between a first end and a second end with the cylindrical sidewall interconnecting the first end with the second ends of the mounting cup; the cylindrical sidewall having a cylindrical axis coincident with an axis of symmetry of the mounting cup; the cylindrical sidewall having a first cylindrical region in proximity to the first end of the mounting cup and a second cylindrical region in proximity to the second end of the mounting cup; the first cylindrical region of the cylindrical sidewall being integrally joined to the peripheral rim for sealably securing the mounting cup to the bead of the aerosol container; the second cylindrical region of the cylindrical sidewall being integrally joined to the bottom wall forming junction thereat*, does not reasonably provide enablement for said second region of said sidewall and said bottom wall being located radially inwardly relative to said second region of said sidewall to provide a recessed mounting surface for securing the collapsible container to said mounting cup; and

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said recessed mounting surface being located radially inwardly relative to said second region of said sidewall a distance sufficient to provide clearance for inserting the improved mounting cup and the attached collapsible container through the opening defined by the bead of the aerosol container.

The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with the claim.

5. Claim 48 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for *the mounting cup extending between a first end and a second end with the cylindrical sidewall interconnecting the first end with the second ends of the mounting cup; the cylindrical sidewall having a cylindrical axis coincident with an axis of symmetry of the mounting cup; the cylindrical sidewall having a first cylindrical region in proximity to the first end of the mounting cup and a second cylindrical region in proximity to the second end of the mounting cup; the first cylindrical region of the cylindrical sidewall being integrally joined to the peripheral rim for sealably securing the mounting cup to the bead of the aerosol container; the second cylindrical region of the cylindrical sidewall being integrally joined to the bottom wall forming junction thereat*, does not reasonably provide enablement for said second region of said sidewall and said bottom wall being located radially inwardly relative to said second region of said sidewall to provide a recessed mounting surface for securing the collapsible container to said mounting cup; and

said recessed mounting surface being located radially inwardly relative to said second region of said sidewall a distance sufficient to provide clearance for inserting the improved mounting cup and the attached collapsible container through the opening defined by the bead of the aerosol container.

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The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with the claim.

6. In view of the 35 U.C 112 issues, comment as to the allowability of the claims 38-48 cannot make at this time.

7. Amendments to the specification as mentioned in the remarks filed 8/27/07 have not been received in the record.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LIEN TM NGO  
Primary Examiner  
Art Unit 3754

September 12, 2007

A handwritten signature in black ink, appearing to read 'Lien TM Ngo', with a stylized, cursive script.